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October 7, 1994

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mr. William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W.--Room 222
Washington, D.C. 20554

Re: Trinity Broadcasting of Florida, Inc.
Miami, Florida
MM Docket No. 93-75


Dear Mr. Caton:

On behalf of Trinity Broadcasting of Florida, Inc.; Trinity Christian Center of Santa Ana, Inc. d/b/a Trinity Broadcasting Network; and National Minority T.V., Inc., enclosed for filing are an original and six copies of their "Reply Findings of Fact and Conclusions of Law" in the above-referenced proceeding.

In preparing this Reply, we discovered that apparently two versions exist of Volume 26 of the Transcript, which contains testimony by Norman Juggert, Armando Ramirez, and David Espinoza. The volumes differ in page numbering by one page. We bring this matter to the Commission's attention to assist the Presiding Judge in the event he is unable to find a cited matter due to the one-page difference between the two transcript volumes.

If there are any questions concerning these matters, please contact the undersigned counsel.

Sincerely,


Howard A. Topel

HAT/jt
Enclosures

cc: All Parties on Certificate of Service

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| In Re Applications of |) | MM Docket No. 93-75 |
| |) | |
| TRINITY BROADCASTING OF FLORIDA, |) | |
| INC. |) | BRCT-911001LY |
| |) | |
| For Renewal of License of |) | |
| Television Station WHFT(TV) |) | |
| Miami, Florida |) | |
| |) | |
| GLENDAL E BROADCASTING COMPANY |) | BPCT-911227KE |
| |) | |
| For Construction Permit |) | |
| Miami, Florida |) | |

To: Hon. Joseph Chachkin
Administrative Law Judge

REPLY FINDINGS OF FACT AND CONCLUSIONS OF LAW

TRINITY BROADCASTING OF FLORIDA, INC.,
TRINITY BROADCASTING NETWORK,
NATIONAL MINORITY T.V., INC.

Mullin, Rhyne, Emmons and Topel, P.C.
1225 Connecticut Ave., N.W.--Suite 300
Washington, D.C. 20036-2604
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October 7, 1994

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SUMMARY

There are material distinctions between TBF and Glendale under the basic qualifications issues. Those distinctions are discussed at Section IV, pp. 224-29 of this Reply. In view of those matters, the Mass Media Bureau's conclusion that TBF is basically qualified, but Glendale is not basically qualified, is clearly correct.

The Glendale/SALAD submissions are not even minimally reliable as proposed findings and conclusions and should be disregarded. Although this case centers on the Commission's minority preference policies, Glendale/SALAD do not even refer to the Commission's decisions adopting those policies and the reasons for them. Consequently, they propose an Initial Decision that would contradict Commission law and policy.

Glendale/SALAD also ignore or mischaracterize evidence that establishes the following: (1) it was reasonable for Paul Crouch to rely on Colby May to determine what information needed to be filed with the Commission because Mr. May had proved in a prior proceeding his disposition to disclose even unfavorable information to the Commission; (2) Jane Duff and the NMTV Board have made NMTV's key decisions and Paul Crouch and TBN do not control NMTV; and (3) no abuse of process has occurred. Glendale/SALAD's indiscriminate lack of candor allegations violate established Commission principles of fairness and

warrant no consideration. Moreover, the allegations badly distort the facts and have no merit.

Unlike Glendale/SALAD, the Bureau recognizes that this case cannot be decided without addressing the minority preference and ownership policies. The Bureau correctly reviews the pertinent history and policy behind the minority preferences for translator/low power applications and correctly finds that NMTV committed no violation concerning those applications. The Bureau also correctly recognizes that the pertinent law concerning the Trinity qualification issues favors refined rather than sweeping remedies, and makes a conscientious effort to recommend a measured and refined remedy.

The Bureau's findings, however, stop short of a complete analysis of the history and policy underlying the minority expansion of the multiple ownership limits. By not considering Commissioner Patrick's published description of that policy at the time it was adopted and the Advisory Committee recommendation on which the policy is based, the Bureau erroneously infers that NMTV and TBN had abusive intent regarding NMTV's full power applications. Although Mr. May erroneously interpreted the rule, the record does not justify a finding via inference that he acted in bad faith. Nor does it justify the further leap by inference that, even if Mr. May had an abusive intent, his client had such an intent. Since the record does not support a

specific finding of abusive intent, no abuse of process occurred.

The Bureau's conclusions on the de facto control issue do not address a substantial amount of relevant evidence that the Bureau deemed important at the hearing. The Bureau's conclusions rely on suppositions that cannot substitute for the requisite evidence of who made NMTV's decisions. The Bureau's conclusions on that issue therefore should not be adopted.

With respect to the Glendale qualifications issues, Glendale fails to show why it should not be disqualified for the egregious misrepresentations and lack of candor in various applications filed by Raystay Company with the Commission in 1991 and 1992. Glendale is reduced to semantic contortions in trying to defend Raystay's representations about the 60-second "lease negotiations," the site visit of "an engineer," and the "continuing" negotiations with cable operators that had ended months earlier. Moreover, Glendale cannot refute the evidence that George Gardner participated directly in the deception, since he knew very well when he signed the LPTV extension applications that Raystay had no viable business plan, did not intend to build without one, and was actively trying to sell its LPTV business -- none of which Gardner disclosed to the Commission. Equally uncandid was the false expense certification contained in Raystay's York/Red Lion assignment application.

Not mentioned by Glendale is that when the Raystay applications were filed, George Gardner was formally under "heightened scrutiny" for prior misconduct and had pledged to the Commission that he would carefully review the accuracy of anything he filed. These circumstances aggravate both his own participation in deception and his failure to prevent the misconduct of his subordinates. The record shows convincingly that Gardner is both untrustworthy and unreliable, and therefore unfit under the Commission's character policy to be a Commission licensee.

Although the question of renewal expectancy is made academic by Glendale's disqualification, the Mass Media Bureau is correct in concluding that WHFT warrants a renewal expectancy for its public service programming and extensive community outreach efforts during the License Term.

OCT - 7 1994

Before the

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To: Hon. Joseph Chachkin
Administrative Law Judge

REPLY FINDINGS OF FACT AND CONCLUSIONS OF LAW

Trinity Broadcasting of Florida, Inc. ("TBF"), Trinity Christian Center of Santa Ana, Inc. d/b/a Trinity Broadcasting Network ("TBN"), and National Minority T.V., Inc. ("NMTV") hereby reply to the proposed findings of fact and conclusions of law filed by the other parties on August 15, 1994.^{1/}

^{1/} In this reply, the proposed findings of fact and conclusions of law filed on behalf of Glendale Broadcasting Company ("Glendale") by Cohen & Berfield, P.C. will be referred to as "Glendale PFCL I", those filed on behalf of Glendale by Bechtel & Cole, Chartered as "Glendale PFCL II", those filed by the Spanish American League Against Discrimination ("SALAD") as "SALAD PFCL", and those filed by the Mass Media Bureau as "MMB PFCL". The proposed findings of fact and conclusions of law of TBF, TBN, and NMTV will be referred to as "TBF PFCL".

I. INTRODUCTION

1. The Mass Media Bureau, TBF, TBN, and NMTV agree that TBF is qualified to remain a licensee, that TBF is entitled to a renewal expectancy, that Glendale is not qualified, that the TBF application should be granted, and that the Glendale application should be denied. That is the correct resolution of this proceeding. Only Glendale itself thinks that Glendale is qualified.

2. In this Reply, we address the other parties' proposed findings and conclusions on an issue-by-issue basis.

II. TRINITY QUALIFICATIONS ISSUES

A. Preliminary Statement

3. A judicious decision should have three elements: (a) a discussion of the applicable law; (b) a fair and accurate recitation of the facts; and (c) an application of the law to the facts. Glendale and SALAD urge adoption of an Initial Decision that would lack all three elements.^{2/}

4. Most astonishingly, in a case that centers on the Commission's policies regarding minority preferences for translator and low power applications and the minority expansion of the multiple ownership limits, Glendale/SALAD make not one

^{2/} SALAD formally adopts Glendale's proposed findings of fact and conclusions of law on the Trinity qualifications issues as its own. (SALAD PFCL ¶6.)

reference to the Commission's decisions adopting those policies and the reasons for them. Instead they take rhetorical cheap shots, asserting, for example, that it is "a patronizing racial stereotype" to suggest that minorities entering broadcast ownership should receive "the tutelage of an experienced non-minority enterprise." (Glendale PFCL I ¶584.) Since the very purpose of the Commission's minority expansion of the multiple ownership limits is to make available to minorities the tutelage of an experienced non-minority enterprise (TBF PFCL ¶¶590-600), Glendale/SALAD are essentially accusing the Commission itself of "patronizing racial stereotyping." Proposed findings and conclusions which reflect that attitude and wholly ignore the governing policies cannot be taken as a serious effort to address the record and the issues in this case.

5. Both legally and factually, the Glendale/SALAD submissions are inaccurate, incomplete, and affirmatively misleading. They mischaracterize the evidence, make reckless and unsupported charges, and consistently omit important facts that undermine their contentions. They also rely on matters that are outside the record because they themselves asked the Presiding Judge to exclude those matters. The Glendale/SALAD submissions are injudicious in tone, arbitrary and capricious in content, and have no place in an Initial Decision.

6. To its credit, the Mass Media Bureau has conducted this proceeding on a much higher plane. Unlike Glendale/SALAD,

the Bureau recognizes that this case cannot be decided without addressing the minority preference and ownership policies. Unlike Glendale/SALAD, the Bureau recognizes that some of the theories it explored at the hearing find no support in the record. Unlike Glendale/SALAD, the Bureau recognizes that the pertinent law favors refined rather than sweeping remedies, and therefore makes a conscientious effort to recommend a measured and refined remedy. (MMB PFCL ¶308, citing, inter alia, The Seven Hills Television Company, 2 FCC Rcd 6867, 6887 (Rev. Bd. 1987).) It is significant that the Bureau, which was extremely attentive to the relevant issues throughout the proceeding, proposes none of the indiscriminate lack of candor allegations that permeate the Glendale/SALAD submissions. In short, unlike Glendale/SALAD, the Bureau -- to its great credit -- has made a conscientious effort to address the relevant law and facts.

7. However, we respectfully submit that the Bureau's analysis is erroneous in several key respects. For example, while the Bureau correctly reviews the pertinent history and policy behind the minority preferences for translator and low power applications and correctly finds no violation concerning those applications, it stops short of a complete analysis of the history and policy underlying the minority expansion of the multiple ownership limits. That policy cannot be fully addressed without reference to the Advisory Committee Report and recommendation on which it is based (TBF PFCL ¶¶590-600), and to Commissioner Patrick's published description of that policy at

the time it was adopted (id. ¶659). By overlooking that pertinent history, the Bureau incorrectly infers abusive intent. In several other respects as well, the Bureau's proposed findings and conclusions are erroneous and should not be adopted. Nonetheless, the Bureau is correct in its ultimate conclusion that TBF is qualified to remain a licensee.

B. Reply to Glendale and SALAD

1. Failure to Address the Commission's Policies

8. To borrow a phrase from SALAD (SALAD PFCL ¶83), "[i]t doesn't take a rocket scientist to figure out" that this case centers on the Commission's minority preference policies for translator and low power applications and the minority expansion of the multiple ownership limits. Yet, while Glendale/SALAD are highly critical that Colby May furnished no written analysis of Commission policy to Paul Crouch (Glendale PFCL I ¶¶62, 624), they would have the Presiding Judge publish a decision in this case that contains no such analysis.

9. As the Bureau and we showed in our respective submissions, the Commission adopted the minority preference policy for translator and low power lotteries in Random Selection Lotteries, 93 FCC 2d 952 (1983). (MMB PFCL ¶304; TBF PFCL ¶684.) It explained that policy in a Public Notice released August 19, 1983, and related Commission actions. (MMB PFCL ¶304; TBF PFCL ¶¶684-87.) Although it is essential to consider those seminal

Commission actions to decide this case correctly, Glendale/SALAD ignore them.

10. Likewise, as the Bureau and we showed in our respective submissions, the Commission adopted its policy regarding the minority expansion of the multiple ownership limits in Amendment of Section 73.3555 (Reconsideration of Multiple Ownership Rules), 100 FCC 2d 74 (1985). (MMB PFCL ¶¶298-99; TBF PFCL ¶¶592, 595-96.) The pertinent history of that Commission policy also includes the 1982 Advisory Committee Report and its recommendation that became the Commission's policy; the Statement of Policy on Minority Ownership of Broadcast Facilities, 92 FCC 2d 849, 852 (1982) ("1982 Minority Policy Statement"); the Report and Order in Attribution of Ownership Interests, 97 FCC 2d 997, 1025 (1984); and Commissioner Patrick's contemporaneous description of the policy after he participated in the Commission's deliberations adopting it, Reconsideration of Multiple Ownership Rules, supra, 100 FCC 2d at 104. (TBF PFCL ¶¶592-99.) It is essential to consider those seminal actions to decide this case correctly. Again, however, Glendale/SALAD ignore them.

11. It is unacceptable when parties ask the Presiding Judge to issue a decision that ignores all the essential precedents. It is worse when they indulge in rhetoric that is injudicious, misstates the law, and would embarrass the Commission if adopted. Glendale/SALAD degrade this proceeding when they accuse Paul Crouch of patronizing minorities. (Glendale

PFCL I ¶584.) Had they bothered to consider the Commission policies at issue, they would have realized that it is the Commission policy they label "patronizing."

12. In particular, had they considered the applicable policy, Glendale/SALAD would have recognized that the Commission adopted the minority expansion of the multiple ownership rules to address "a lack of management and technical expertise" that impedes minority participation in broadcasting. The policy is designed to encourage joint ventures through which an experienced non-minority enterprise will help minorities by developing the property, providing the necessary management and technical expertise, exercising significant influence as officers and Board members, and maintaining that assistance "from the entry stage to an appreciable period of the business operation." 1982 Minority Policy Statement, supra; 1982 Minority Policy Statement, supra; Reconsideration of Multiple Ownership Rules, supra; Attribution of Ownership Interests, supra; TBF PFCL ¶¶590-600. For similar reasons, the Commission has recently proposed an "incubator" program that is specifically designed to encourage experienced non-minority enterprises to provide minority-owned businesses with the expertise they have lacked to become successful station owners. Revision of Radio Rules and Policies, 7 FCC Rcd 6387, 6391 (1992). (TBF PFCL ¶591.) In short, by ignoring the applicable Commission policy, Glendale/SALAD ask the Presiding Judge to adopt an Initial Decision that would embody the following syllogism:

Glendale/SALAD Syllogism 1: It is a patronizing racial stereotype to suggest that minority entrants to broadcasting should receive the tutelage of an experienced non-minority enterprise. It is Commission policy to encourage that minority entrants to broadcasting should receive the tutelage of an experienced non-minority enterprise. Therefore, Commission policy is a patronizing racial stereotype.

We urge the Presiding Judge to reject that suggestion.

13. In the same vein, SALAD asks the Presiding Judge to adopt the following conclusion:

"The earmark of corporate legitimacy is the absence of intermingling with another corporation, especially one which might be thought dominant. NMTV fails this test miserably." (SALAD PFCL ¶73, emphasis in original.)

Again, had SALAD considered the Commission policy in issue, it would have realized that such intermingling -- a "joint venture" between an experienced broadcaster and a minority company -- is precisely what the Commission policy intends. (¶12 above.) Thus, SALAD asks the Presiding Judge to adopt an Initial Decision that would embody the following syllogism:

SALAD Syllogism 2: The earmark of corporate legitimacy is the absence of intermingling with another corporation, especially one which might be thought dominant. Commission policy encourages the intermingling of minority corporations with arguably dominant established broadcasters through joint ventures in which experienced broadcasters are expected to have highly influential involvement. Therefore, Commission policy encourages corporate illegitimacy.

We urge the Presiding Judge to reject that suggestion also.

14. Not only do Glendale/SALAD accuse Paul Crouch of a patronizing attitude, they charge Pastors E.V. Hill and David Espinoza with the same thing. Their argument about patronizing

racial stereotypes relies heavily, though superficially, on the testimony of Pastors Hill and Espinoza describing TBN's role in the establishment and support of NMTV as a parent/child relationship. (Glendale PFCL I ¶¶23, 198, 584.)^{3/} E.V. Hill has been a spokesman for Black interests in Watts and greater Los Angeles for over 30 years and is a national civil rights leader. (TBF PFCL ¶149.) As Glendale/SALAD know, he was nominated by the President to serve as Chairman of the United States Civil Rights Commission. (Tr. 696.) The suggestion that he and David Espinoza, who similarly has served his Hispanic community for decades, hold patronizing racial beliefs is preposterous and would badly flaw the Initial Decision if adopted.

15. Glendale/SALAD also contradict Commission policy when they argue that NMTV's reliance on TBN for financing station acquisitions and construction constitutes de facto control of NMTV's finances. (Glendale PFCL I ¶569; SALAD PFCL ¶54.) Had Glendale/SALAD considered the applicable precedents, they would have recognized that the Commission adopted its policy precisely to encourage established broadcasters to provide such financing in order to alleviate a "pressing dilemma" that exists because minorities are unable to obtain capital from other sources. (TBF PFCL ¶¶591-94, 597, 600.) Thus, by proposing that de facto control should be found when such financing is made available,

^{3/} A complete description of the testimony of Pastors Hill and Espinoza about this aspect of TBN and NMTV's relationship can be found at TBF PFCL ¶¶112, 154-56, and note 26.

Glendale/SALAD ask the Presiding Judge to adopt an Initial Decision that would embody the following syllogism:

Glendale/SALAD Syllogism 3: The Commission encourages established broadcasters to make financing available to minorities because such financing is unavailable from other sources. When an established broadcaster makes such financing available, it is guilty of exercising de facto control because the minority company is dependent on it for financing.

Such illogic -- which penalizes a party for doing exactly what the Commission encourages -- converts an intended incentive into a disincentive that defeats the Commission's very policy.

16. Because Glendale/SALAD fail to address the applicable Commission policies, they also wrongly suggest that it is improper that TBN benefits from its relationship with NMTV. (Glendale PFCL I ¶639; SALAD PFCL ¶¶19, 81.) Had Glendale/SALAD addressed the applicable Commission authority, they would have realized that the minority ownership policy is based on providing "incentives" for group owners who establish and assist minority companies. Reconsideration of Multiple Ownership Rules, supra, 100 FCC 2d at 94-95. The point of the policy is that, without such incentives, established broadcasters are not giving minorities enough help. To induce greater help for minorities, the Commission devised incentives that are supposed to benefit broadcasters. Hence, it is entirely proper for a broadcaster to establish an organization to gain the benefit of minority ownership preferences. Alexander S. Klein, 86 FCC 2d 423, 431-32 (1981), recon. denied, 88 FCC 2d 583 (1981); Intermart Broadcasting Gulf Coast, Inc., 8 FCC Rcd 2937, 2940

(Rev. Bd. 1993) (§17) affirmed, 8 FCC Rcd 8382 (1993); Sanders Broadcasting Company Limited Partnership, 5 FCC Rcd 5671, 5675-76 (ALJ 1990) (§§64, 66). Likewise, it is typical and entirely proper for networks to have program affiliation agreements with minority-owned companies and others to whom they provide financing. The Seven Hills Television Company, Inc., 2 FCC Rcd 6867, 6880-82 (Rev. Bd. 1987) (SIN affiliation agreement); The O.T.R.H., Inc., FCC 87I-097, released September 8, 1987 (Telemundo affiliation agreement); David A. Davila, 6 FCC Rcd 2897 (1991), affirming 5 FCC Rcd 5222, 5222 (Video Services 1990) (Telemundo affiliation agreement); Spanish International Television Co., Inc., 5 RR 2d 3, 4-5 (1965) (SIN affiliation agreement).^{4/} Contrary to Glendale/SALAD's arguments, which are made without reference to the Commission's policies, there is nothing improper about such arrangements.

17. Glendale/SALAD are actually faulting TBN for not doing more than Commission policy expects. Dr. Crouch readily acknowledged that TBN's interest in NMTV regarding translator and low power stations was based on the incentive the Commission gave through its minority preference. (TBF PFCL §§12, 25.) Contrary to Glendale/SALAD's argument (Glendale PFCL I §589; SALAD PFCL §81), there is no impropriety in the fact that TBN

^{4/} The Home Shopping Network also has utilized the benefit of the non-attribution aspects of the multiple ownership rules to acquire interests in additional stations and has provided financing for those stations. In such instances the stations have entered into HSN affiliation agreements.

did not go beyond that incentive and help NMTV purchase translator and low power stations in situations where the incentive was not provided. The Commission created these incentives to encourage broadcasters to increase their minority assistance to the level for which the incentive was created. To penalize such broadcasters for not going even farther would essentially add a condition to the Commission's policy which the Commission itself did not impose, and would again convert an intended incentive into a disincentive that defeats the policy.

18. Likewise, there is no merit to the suggestion that TBN was required to help NMTV acquire a full power television station before TBN reached its own limit of stations and "needed the Mickey Leland Rule." (SALAD PFCL ¶81.) The purpose of the Commission's policy was to create an incentive for group owners who had reached their limits to acquire additional interests through joint ventures with minorities. The policy contains no requirement that the group owner must acquire interests with minorities before attaining its own station limit. By failing to consider the Commission's underlying policies and its rationale for creating such incentives, Glendale/SALAD ask the Presiding Judge to impose new conditions on the exercise of those incentives.

19. Also contrary to Commission policy is Glendale/SALAD's suggestion that minorities like David Espinoza, Phillip Aguilar, and Jane Duff are engaging in wrongful conduct when they aspire

to trade up from small market stations like Odessa (Market No. 149) to major population centers like Wilmington/Philadelphia, San Francisco, and Portland (Market Nos. 4, 5, and 27). (Glendale PFCL I ¶¶96, 109, 116, 179.) That suggestion insinuates that somehow market size is not a legitimate consideration for minority-owned companies when they seek to acquire new stations. That is certainly not Commission policy, and any such suggestion would discredit the Initial Decision.

20. SALAD argues that this proceeding should be decided by comparing NMTV to the entertainer Michael Jackson, "permanently a child." (SALAD PFCL ¶84.) That allusion is sophomoric and inapt. The Commission contemplates that the joint venture by which the established operator provides the minority licensee with management and technical expertise should continue "from the entry stage to an appreciable period of the business operation." 1982 Advisory Committee Report, pp. 21-23 (emphasis added). (TBF PFCL ¶593.) SALAD argues that NMTV allegedly has a 14 year operating history; "never did anything of substance for minorities" and thus has no corporate personality; and is TBN's "financial captive" because it "can never free itself from its overwhelming debt to TBN," a \$3 million payment due in 1998. (SALAD PFCL ¶¶53, 54, 83, 119.) However, that argument ignores both the Commission's policy and the evidence.

21. Throughout their submissions, Glendale/SALAD labor to create the misleading impression that NMTV's business operation

is very old. (SALAD PFCL ¶¶54, 65, 84; Glendale PFCL I ¶¶235-44.) In reality, NMTV's first station did not commence operations until October 1988. (TBF PFCL ¶32; TBF Ex. 101, p. 34; MMB Ex. 222.) Thus, NMTV's business of operating television stations was only 2½ years old when the petition to deny NMTV's Wilmington application was filed in May 1991. (SALAD PFCL ¶14.) NMTV's Portland station did not commence operations until November 1989, and thus was only 1½ years old when the Wilmington petition was filed. (TBF PFCL ¶32; TBF Ex. 101, p. 35 and Tab V, p. 57.) The station was still less than four years old at the time of the hearing and had spent much of that time building an expensive studio for local production. (TBF PFCL ¶183.) Michael Jackson is 36 years old. Though we agree that 36 years would exceed "an appreciable period of the business operation" under the Commission's policy, station operations of four years or less clearly do not. Since NMTV's business operation is still in or very near the entry level, SALAD's argument is contrary to the Commission's policy even if everything else that SALAD alleges were correct.

22. However, SALAD's facts are wrong too, and its position is disingenuous. Particularly inappropriate is its claim that NMTV "never did anything of substance for minorities," when SALAD itself successfully objected on relevance grounds to NMTV's proffer of extensive evidence showing NMTV's substantial contribution to the minority community in the vital areas of minority employment, specific minority-oriented programming,

minority training, and minority community outreach. (Tr. 480-82, 489-90.) A party that has caused evidence to be excluded as irrelevant may not then properly contend that no such evidence exists.

23. In any event, to argue that NMTV never did anything of substance for minorities, one must completely ignore the training that Jane Duff gave to James McClellan a year and a half before the Wilmington petition -- training in which she laid out NMTV's plans to serve the minority community. (TBF PFCL ¶80.) One must completely ignore NMTV's expenditure of over \$1.1 million to construct a studio for the production of local and minority oriented programming, an effort that began long before the Wilmington petition. (Id. ¶¶182-84.) One must completely ignore the NMTV Board of Directors meetings at which the studio and minority programming, staffing, training, and outreach were considered. (Id. ¶¶109, 130, 135, 162, 181, 182, 188.) One must completely ignore Mr. McClellan's response to the direction he received from Mrs. Duff and NMTV's Board, which included: (a) NMTV's outreach to the minority community through the Human Rights Commission, drug and alcohol programs, the Urban League, and food and clothing relief; and (b) NMTV's emphasis in its programming on minority hosts and on minority issues such as discrimination, gangs, school dropout, tutoring, and housing programs. (Id. ¶¶81, 141.) One must completely ignore the evidence that was admitted about NMTV's minority staffing, including the training of a minority as the Assistant